

**BellSouth Telecommunications, Inc.**

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February 21, 2003

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TN REGULATORY AUTHORITY  
DOCKET ROOM

VIA HAND DELIVERY

Hon. Sara Kyle, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Petition to Suspend BellSouth "Welcoming Reward" Tariff and Open a  
Contested Case Proceeding*  
Docket No. 03-00060

Dear Chairman Kyle:

As you will recall, during the February 18, 2003 Conference, BellSouth asked for the opportunity to present a proposal designed to address concerns expressed regarding BellSouth's *Welcoming Reward* Program. Those concerns focused on the applicable discount for CLEC resale of the *Welcoming Reward* Program, and the questions regarding resale arose in light of a dispute over whether BellSouth's *Welcoming Reward* tariff constituted a "short-term" or "long-term" promotion.

BellSouth is enclosing a substitute tariff, which will alter several terms of its *Welcoming Reward* Program such that the promotion is clearly a long-term promotion rather than a short-term promotion. Specifically, BellSouth will modify its tariff:

(1) to lengthen the duration of the program to clearly exceed 90 days by stating that "[B]eginning February 3, 2003 and continuing until May 30, 2003, qualifying business customers with locations in Rate Group 5 may enroll in this Program ...";

(2) to extend the period during which rewards are received by end users by stating that "[T]he Reward will appear as a one-time credit in the OC&C section of the Subscriber's bill in the 4<sup>th</sup> or 5<sup>th</sup> subsequent billing period, usually within 120-150 days"<sup>1</sup>, and to require the end user to maintain such lines through the 4<sup>th</sup> billing period in order to receive the reward by

<sup>1</sup> See paragraphs A, A.4 and B.2 of the enclosed proposed tariff.

stating that the reward will be "\$100 per new line/per location at the time BellSouth becomes local service provider and retained through 4<sup>th</sup> billing period;" and

(3) to make both the underlying service and the bill credit available to resellers at the wholesale discount by stating that "[T]his Program, as well as the \$100 Reward described below, is available for resale at the wholesale discount ..."

In an attempt to find a compromise, BellSouth is willing to alter its tariff such that it is clearly a "long-term" promotion for purposes of resale, and BellSouth will make the \$100 bill credit available at the wholesale discount to reselling CLECs. BellSouth proposes that the substitute tariff changing the *Welcoming Reward* Program from a short-term to a long-term promotion be approved to replace the earlier tariff on a going-forward basis.

The bottom line is that this compromise accomplishes two things: (1) it provides a longer period during which customers and resellers can take advantage of this attractive promotional offer; and (2) it enables resellers to resell the underlying service at the wholesale discount **and** obtain the \$100 bill credit discounted at the wholesale rate. Given the focus on resale in briefing and argument relating to this tariff, BellSouth believes that altering the program to be one that we can all agree is a "long-term" promotion – available for resale at the wholesale discount – should adequately resolve all concerns regarding this particular promotion.

At the February 3 Agenda Conference, BellSouth proposed a different compromise – specifically a limitation on termination liability, in an attempt to allay concerns regarding the length (i.e., short-term or long-term) of the promotion. These changes regarding the termination liability were included to clarify the short-term nature of the promotion. While BellSouth continues to believe that the original tariff is properly categorized as a short-term promotion, under both FCC Rules and TRA Orders, BellSouth is willing to offer a different compromise that moots the issue of whether such a promotion constitutes a "short-term" promotion. The limitation of termination liability (both the limitation to apply termination liability only before the 90<sup>th</sup> day and the limitation to apply termination liability only after the 90<sup>th</sup> day) was intended to further underscore the short-term nature of the promotion. In light of the continued questions regarding that issue, BellSouth has decided to instead offer a long-term promotion. The long-term promotion BellSouth is proposing instead would be subject to the ordinary termination liability provisions in BellSouth's termination liability tariff.

Accordingly, the substitute tariff provides, consistent with numerous other long-term promotions approved by the Authority, that should a participating customer terminate a contract signed under the Program without cause, the customer will pay termination liability in accordance with previously approved tariffs.<sup>2</sup>

During the February 18 Conference, Director Jones asked BellSouth to address a question regarding the relationship between a 12-month term and the cost floor requirement. BellSouth continues to believe that it is appropriate to address questions relating to the cost floor by examining revenue anticipated over the life of customers' relationships with the service provider rather than only the revenue for a 90-day period. If the typical customer continues to subscribe to a service for six months after the end date of a 90-day promotion, for example, the revenue for nine months, rather than the revenue for 90 days, should be considered in addressing any questions as to whether the revenues cover costs. Given the long-term nature of the substitution tariff proposed by BellSouth, however, we believe this question, as well as the question regarding the application of termination liability outside the 90-day promotional period, are no longer relevant to the tariff BellSouth seeks to substitute. This is because the 90-day period is only relevant for purposes of demonstrating the short-term nature of a promotion and BellSouth is not asking that its substitute promotion be considered short-term. Instead, BellSouth is offering to provide the program for a longer term, and BellSouth is willing to provide the wholesale discount for resale as discussed above. Importantly, BellSouth wishes to stress that, notwithstanding any argument it may wish to raise in the future regarding short-term promotions, BellSouth is proposing to offer a long-term promotion and to provide for resale with precisely the wholesale discounts sought by the complaining CLECs.

BellSouth submits this substitute tariff in the spirit of compromise and does not waive any arguments it may raise in the future regarding promotions in general or the original *Welcoming Rewards* tariff specifically.

BellSouth proposes that this substitute tariff be approved by the Authority during its next scheduled Agenda Conference. While this substitute tariff modifies the *Welcoming Reward* tariff, BellSouth believes that this modification has resulted from specific Authority questions and developments relating to BellSouth's tariff in effect. Accordingly, BellSouth does not believe that an additional 30-day period is required for review of this tariff. To the extent that the 30-day filing requirement is deemed applicable, BellSouth respectfully requests that this requirement be waived in light of BellSouth's notice to counsel for the CAPD and for the four petitioning CLECs, in light of

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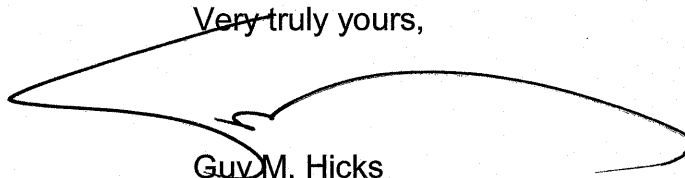
<sup>2</sup> See paragraph A.4 of the enclosed proposed tariff.

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BellSouth's filing of the original tariff 30 days prior to effective date, and in light of the fact that interested parties and the TRA will have 10 days following this filing to review the modifications prior to the conference on March 3.

As a courtesy, a copy of the letter is being provided to Mr. Henry Walker and Mr. Joe Shirley.

Very truly yours,

A handwritten signature in black ink, appearing to read "Guy M. Hicks". The signature is stylized with a large, sweeping loop that extends to the left and then curves back to the right, ending under the name.

Guy M. Hicks

GMH:ch

## A13. MISCELLANEOUS SERVICE ARRANGEMENTS

### A13.90 Business Programs

#### A13.90.27 2003 Welcoming Reward Program

##### A. Rules and Regulations

Beginning February 3, 2003, and continuing until May 30, 2003, qualifying business customers with locations in Rate Group 5 may enroll in this Program, which offers rewards on the subscriber's bill described below, by signing a 12-month contract. (N)

1. In order to qualify for the 2003 Welcoming Reward Program new BellSouth business customers must be located in Rate Group 5 and have aggregate annual billing, per state of BellSouth services, not exceeding \$36,000 at the time of enrollment. (N)
2. Qualifying Program participants must sign a 12-month term contract to receive the rewards that are detailed in B. following, Reward Schedule. (N)
3. Applicable taxes and fees will be based on the full tariff price of all products and services, and no taxes or fees will be added to the amount of any reward under this program. (N)
4. To participate in this Program, qualifying customers must sign a 12-month contract between February 3, 2003, and May 30, 2003. Following this period, no subscribers may enroll in this Program. Beginning March 3, 2003 this Program as well as the \$100 Reward described below, is available for resale at the wholesale discount for the duration of this enrollment period. Following the expiration of this enrollment period, no new customers may enroll in the Program, but any contract established under this Program between BellSouth and its customers would continue to be available for resale for the remaining term of the existing contract. Aside from these resale situations, a customer may not assign its rights under any contract signed pursuant to this Program to another customer or to any other third party. (N)
5. Subscribers with multi-locations that are BTN'd or CLUB billed may have all locations participate as long as all the locations qualify and the locations do not have any service with BellSouth as the local service provider. (N)
6. Effective March 3 2003, should a participating customer terminate a contract signed under this Program without cause, the customer must pay BellSouth a termination liability as specified in BellSouth's Tariff A2.4.10.E and B2.4.9.A.4. In addition to this charge, tariffed termination charges for individual services will be applied, if applicable. Payment of the termination charge does not release the customer from other previous amounts owed to BellSouth. Customers with Volume and Term Contract Service Arrangements (CSAs) are not eligible for this Program. (N)
7. BellSouth reserves the right to terminate this program at any time; provided, however, that Subscribers participating in the program will continue to receive this promotion for the remaining term of their term election agreement. (N)
8. Subscribers who are participating in the Welcoming Reward program are not eligible to participate in any of the following term plans or programs: Volume and Term Agreements CSAs, Product Level CSAs, Complete Choice for Business Term Plan, Welcome Back Win Back, Full Circle, Advantage Plus, Medallion Plus, Solution Plus, Hunting Program, or any Key Customer Program (where available). (N)
9. Subscribers may participate concurrently with the Simple Solutions Program. (N)

##### A. Reward Schedule

Eligible Lines	Reward
2+ Lines Per Location	\$100 Per Line

1. \$100 per new line/per location at time BellSouth becomes local service provider and retained through 4<sup>th</sup> billing period. Lines include 1FB and line equivalents. (N)
2. Effective March 3, 2003, the Reward will appear as a one-time credit in the OC&C section of the Subscriber's bill in the 4<sup>th</sup> or 5<sup>th</sup> subsequent billing period usually within 120 days to 150 days.. (N)
3. New lines added to the account or location during the promotional period or term agreement period are not eligible for the \$100. (N)



### BellSouth 2003 Welcoming Reward Program Subscriber Election Agreement- Tennessee

The undersigned Subscriber desires to participate in the BellSouth 2003 Welcoming Reward Program (the "Program"), and agrees to the following:

1. Subscriber is a new BellSouth Telecommunications, Inc. ("BellSouth") business services subscriber and establishes BellSouth as its local service provider with 2 or more business lines per location. Subscriber must be located in Rate Group 5 in Tennessee. Subscriber agrees to keep local services with BellSouth under its General Subscriber Services Tariff (G.S.S.T.) for a minimum of 12 months from the enrollment date in the Program. Participation in the Program begins on the date the term election agreement is signed and returned to BellSouth (unless not accepted or voided by BellSouth). Depending on the Subscriber's billing cycle, the term may begin in the current month or the month following, or the billing cycle that BellSouth completes the Subscriber's term election agreement. Subscriber will earn for each such line added with the initial order and retained through the fourth billing cycle a reward in an amount equal to \$100 times the number of local exchange service lines subscribed to BellSouth at each location.

2. Subscriber agrees to the following reward with a 12-month term election agreement:

Eligible Lines	Reward
2+ lines per location	\$100 per line per location

3. The applied reward for any given month will appear as a credit in the Other Charges and Credits (OC&C) section of the Subscriber's bill in the fourth or fifth subsequent billing period, usually within 120 to 150 days. New lines added to the account or location during the Promotional period or Term agreement, are not eligible for the \$100 per line reward.

4. Should Subscriber terminate this election without cause, Subscriber shall pay BellSouth a termination liability equal to the lesser of: (1) the total of rewards received during the previous twelve (12) months of service or (2) six percent (6%) of the total election amount. Should the Subscriber elect to terminate this agreement prior to the expiration date without cause, the actual termination charge will be calculated based on information available at the time of termination. Based on the information available at the start of this contract, at the end of the first six (6) months of the contract period and for each six (6) month period thereafter, the estimated amount of the termination liability charge will be an amount not to exceed \$ \_\_\_\_\_. In any event, the estimated termination liability charge will not exceed this amount. Should the Subscriber elect to terminate this contract prior to the expiration date without cause, the actual termination charge will be calculated as described above and based on information available at the time of termination. The same termination provisions will apply to all underlying services.

5. In the event Subscriber changes service locations for business local service, Subscriber shall notify its BellSouth Small Business Office to advise of the change in service location.

6. In the event Subscriber is switched without authorization by another carrier for business local service, Subscriber must call its BellSouth Small Business Office to continue the Program once the improperly switched account has been returned to BellSouth.

7. Applicable taxes and fees will be based on the full tariff price of all products and services, and no taxes or fees will be added to the amount of any reward under this program.

8. This Election is subject to and controlled by the provisions of BellSouth's lawfully filed tariffs, including any changes therein as may be made from time to time.

SUBSCRIBER: \_\_\_\_\_  
(Business Name)

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
City/State

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
(Business Telephone Number)

\_\_\_\_\_  
Title

\_\_\_\_\_  
(Additional Business Telephone Number(s))

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email Address (optional)

Version 121902

Seller Name \_\_\_\_\_

CUID \_\_\_\_\_

Telephone # for Questions \_\_\_\_\_